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BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

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IN RE: *Universal Service Contested
Case Proceeding*

OFFICE OF THE
) EXECUTIVE SECRETARY
)
) Docket No. 97-00888

RECEIVED

MAY 22 2001

TN REGULATORY AUTHORITY
GENERAL COUNSEL'S OFFICE

PETITION TO SUBMIT LATE-FILED COMMENTS
OF LEAP WIRELESS INTERNATIONAL, INC.
d/b/a CRICKET COMMUNICATIONS

Leap Wireless International, Inc. d/b/a Cricket Communications ("Cricket"), respectfully petitions the Authority to accept the attached late filed comments in the above-captioned proceeding. Cricket inadvertently missed the deadline for filing comments on additional issues requested by the Authority on April 20, 2001.

Respectfully submitted,

Rob Irving by

Rob Irving, Esq.

Anthony Malone w/ permission

Leap Wireless International, Inc.

Vice President and General Counsel

10307 Pacific Court Center

San Diego, CA 92121

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

May 21, 2001

IN RE: *Universal Service Generic Contested Case Proceeding*
Docket No. 97-00888

ORDER

For good cause shown, the Authority finds that Leap Wireless International, Inc. d/b/a Cricket Communications is entitled to file late-filed comments in the above-captioned proceeding. The motion is therefore GRANTED.

Chairman

ATTEST:

Executive Director

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE: *Universal Service Contested*
Case Proceeding

)
)
) Docket No. 97-00888

**COMMENTS OF LEAP WIRELESS INTERNATIONAL, INC. d/b/a CRICKET
COMMUNICATIONS**

Pursuant to a Notice of Filing dated April 20, 2001, Verizon Wireless ("Verizon") and United Telephone-Southeast, Inc. and Sprint Communications Company L.P. (jointly "Sprint") filed comments on May 11, 2001, regarding whether the Tennessee Regulatory Authority ("TRA") may require Commercial Mobile Radio Service Providers ("CMRS" or "wireless carriers") to contribute to the intrastate Universal Service Fund. Leap Wireless International, Inc. d/b/a Cricket Communications ("Cricket") files these comments in support of those filed by Verizon and Sprint.

Under state law, the TRA has no jurisdiction to regulate wireless carriers. Under T.C.A. § 65-4-104, the TRA "has general supervisory and regulatory power, jurisdiction, and control over all public utilities." T.C.A. § 65-4-101(a)(6) specifically excludes from the definition of public utility "any individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the federal communications commission."¹ The TRA, therefore, has no jurisdiction to require wireless

¹ The term "domestic pubic cellular radio telephone service" is outdated, as the Federal Communications Commission now defines all wireless service under the term Cellular Mobile Radio Service (CMRS). At the time the state statute was written, however, cellular service was the only type of wireless service available, so the express intent of the statute is to exclude all types of wireless services from the TRA's jurisdiction, including Personal Communications Service (PCS).

carriers to contribute to the intrastate Universal Service Fund or regulate wireless carriers in any other way.

In addition to the express language of the state statute, Verizon cites strong policy reasons weighing in favor of a wireless exemption. Subsidies designed to reduce the price of regulated services should be funded only from the revenues of other regulated business. The TRA does not have jurisdiction to regulate the rates of wireless carriers, and, therefore should not impose a contribution requirement on wireless carriers that would affect their rates. Cricket also believes it is unfair to impose the contribution requirement on wireless carriers if the requirement is not imposed on other alternatives to traditional wireline communications services. The TRA has given no indication that it is considering applying the contribution requirement to Internet Service Providers (ISPs), who provide internet protocol telephone service, or cable television service providers (CATV) and their expanding telecommunications offerings.

Verizon also states that imposing an additional fee on wireless service "could dampen the wireless growth and innovation that has to date yielded great public interest benefits for consumers in Tennessee," and the contribution requirement could "reduce demand and shift consumer spending away from wireless service." Many other fees, taxes and charges already appear on the bills of wireless consumers and those consumers are likely to be sensitive to an additional fee. This is especially true for Cricket's customers. At \$29.95 a month, Cricket offers an affordable wireless service to price-conscious consumers. These consumers, generally underserved by the larger wireless carriers, would be particularly sensitive to a price increase.

For the reasons cited above, Cricket supports the comments filed by Verizon and Sprint and urges the Authority to exclude wireless providers from the intrastate Universal Service Fund contribution requirement.

Respectfully submitted,

Rob Irving by Whitney Malone
Rob Irving, Esq. w/ permission

Vice President and General Counsel

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to the following on this the 21st day of May, 2001.

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